

**Johnson, Jere**

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**From:** Jere Johnson [[Johnson.Jere@epamail.epa.gov](mailto:Johnson.Jere@epamail.epa.gov)]  
**Sent:** Wednesday, March 26, 2014 3:21 PM  
**To:** Johnson, Jere  
**Subject:** Fw: Comstock 104e Response  
**Attachments:** 3. Plum Drill Holes.xlsx; 1. EPA 02-22-2012.pdf; 2. Comstock Drill Hole Locations.xlsx; 4. CRMS\_VS\_DrillHoleLocation[1].pdf

Jere Johnson  
 Remedial Project Manager (SFD 8-2)  
 U.S. Environmental Protection Agency  
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If I don't respond to a message, I may be out of the office.  
 Security settings do not permit my "Out of Office" automatic e-mail response to be shared outside of EPA.  
 ----- Forwarded by Jere Johnson/R9/USEPA/US on 03/26/2014 03:20 PM -----

From: "Cindi Byrns" <[byrns@comstockmining.com](mailto:byrns@comstockmining.com)>  
 To: Kathi Moore/R9/USEPA/US@EPA, Eric Esler/R9/USEPA/US@EPA, Jere Johnson/R9/USEPA/US@EPA,  
 Cc: "McIntosh, Carolyn" <[CMcIntosh@PattonBoggs.com](mailto:CMcIntosh@PattonBoggs.com)>, "Jeff Collins" <[jrcollins@ndep.nv.gov](mailto:jrcollins@ndep.nv.gov)>, <[glovato@ndep.nv.gov](mailto:glovato@ndep.nv.gov)>  
 Date: 02/24/2012 12:06 PM  
 Subject: FW: Comstock 104e Response

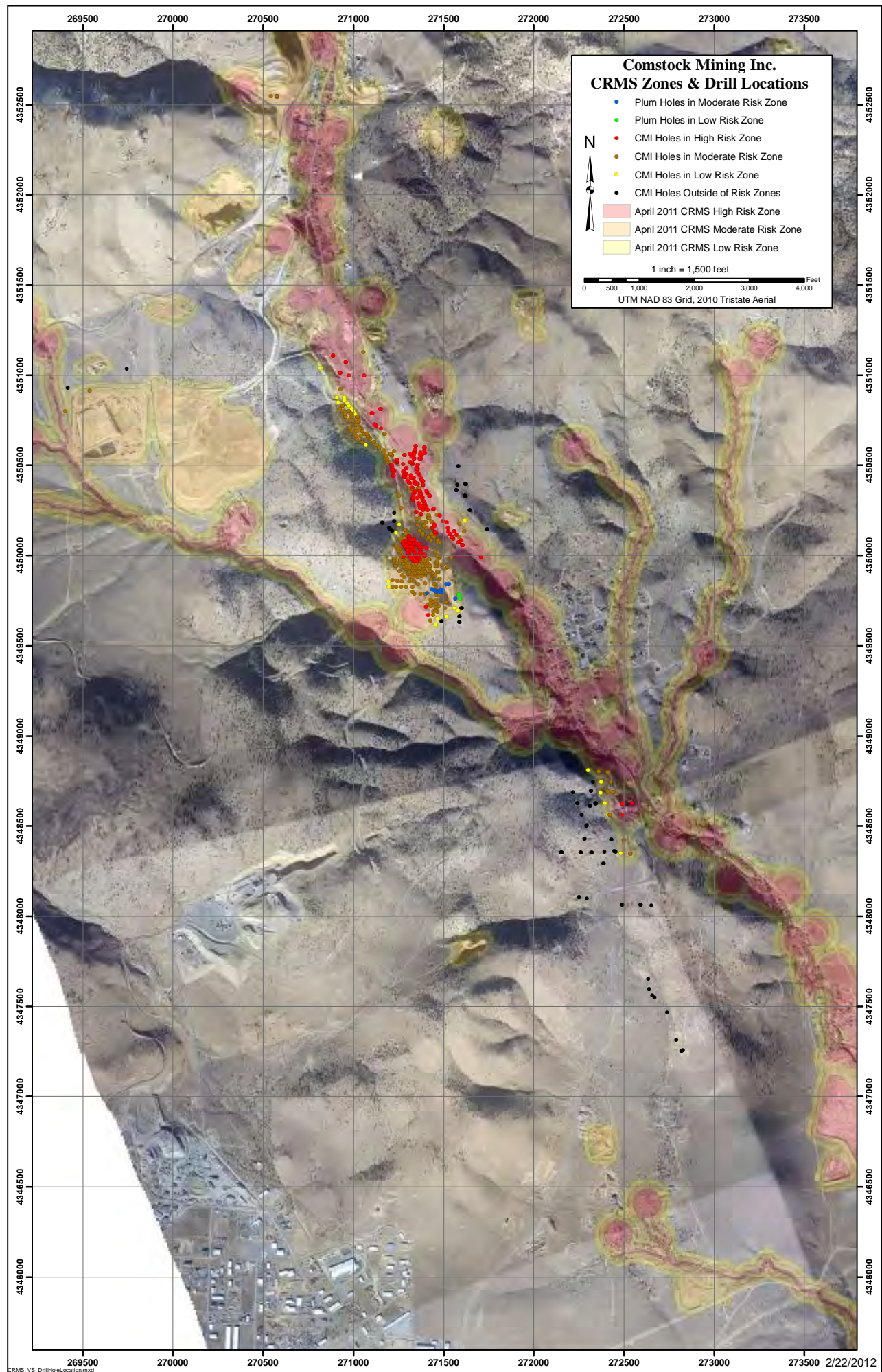
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Ms. Moore,  
 Comstock Mining Inc. has submitted a written response to your 104e request. The hard copy was UPS'd yesterday for delivery today.  
 I am forwarding the same documents in the next series of e-mails. Please let me know if you have trouble receiving and/or opening any of the attachments.

Cindi Byrns  
 Director of Environmental and Regulatory Management  
 702-927-3795(See attached file: 1. EPA 02-22-2012.pdf)(See attached file: 2. Comstock Drill Hole Locations.xlsx)(See attached file: 3. Plum Drill Holes.xlsx)(See attached file: 4. CRMS\_VS\_DrillHoleLocation[1].pdf)

# UTM Locations of Plum Exploration Holes

HOLE_ID	NEW_XC	NEW_YC
L98-221	271564.50	4349763.60
L98-222	271585.32	4349784.25
L98-223	271593.05	4349762.34
L98-224	271487.83	4349796.11
L98-225	271494.41	4349812.94
L98-226	271462.64	4349801.06
L98-227	271478.49	4349809.29
L98-228	271449.81	4349805.37
L98-229	271435.41	4349814.50
L98-230	271408.62	4349791.70
L98-231	271530.14	4349842.14
L98-232	271515.76	4349842.85







COMSTOCK MINING INC

February 22, 2012

***VIA ELECTRONIC TRANSMITTAL  
AND CERTIFIED MAIL***

Ms. Katherine Moore, SFD 7-5  
U.S. Environmental Protection Agency, Region IX  
75 Hawthorne Street  
San Francisco, California 94105  
Moore.kathi@epa.gov

Re: Request for Information  
Carson River Mercury Site, Nevada

Dear Ms. Moore:

On behalf of Comstock Mining, Inc. (Comstock) I am duly authorized to and am responding to your letter dated January 19, 2012, directed to Mr. Corrado De Gasperis (Request Letter). Comstock is pleased to have the opportunity to assist the United States Environmental Protection Agency (EPA) in its management of the Carson River Mercury Site (CRMS) by responding to your request for information. As you know, Comstock has been working cooperatively with EPA and has already voluntarily provided a portion of the information that you have requested.

At my direction, Comstock's environmental attorney, Carolyn McIntosh, discussed the Request Letter with Mr. Esler because I had some concern that Comstock would not be able to compile all requested information within the thirty-day response period indicated in the Request Letter. Mr. Esler approved Comstock providing the responsive information in more than one installment. I am responding and enclosing currently compiled information by electronic transmittal. I am also sending the original letter and attachments to you via UPS (except that I am not sending a hard copy of the SAP, given its length and availability on NDEP's website). For your convenience, I have included your request (shown in green), followed by Comstock's response to each request (shown in black) in the attached Response to Specific Requests.

As noted above, Comstock has previously provided documents responsive to Request No. 1. The "Sampling and Analysis Plan, Comstock Mining Inc. Soils assessment Areas Affected by the Carson River Mercury Site, Gold Hill, NV" (SAP) was finalized and approved by the Nevada Division of Environmental Protection (NDEP) on January 17, 2012. It is responsive to Request No. 2. I understand that a copy was forwarded by NDEP to EPA, but I am including a link to the SAP with this letter (I am not transmitting an electronic copy). I am working diligently to complete the identification of other responsive information. I have attached a list of all documents Comstock is transmitting with this letter, as well as those previously provided. I will update the list with each subsequent response letter.



Please direct future correspondence in regard to this matter to me, with a copy to Comstock's environmental attorney, Carolyn McIntosh, Patton Boggs LLP, 1801 California Street, Suite 4900, Denver, CO 80202. Let me know if you have any additional questions.

Sincerely,

*Cindi Byrns*

Cindi Byrns  
Director of Environmental and Regulatory Management

Enclosure

cc: Eric Esler, Esq. (Esler.Eric@epa.gov)  
Ms. Jere Johnson (Johnson.Jere@epa.gov)  
Mr. Greg Lovato, NDEP (GLovato@NDEP.nv.gov)  
Mr. Jeff Collins, NDEP (JRCollins@NDEP.nv.gov)  
Carolyn L. McIntosh (cmcintosh@pattonboggs.com)



## **Response to specific requests**

**Request 1.** Please provide information, including documents of incorporation, acquisition, sale, and purchase, for Comstock Mining Inc. and any and all companies bought, merged with, or otherwise acquired by Comstock Mining Inc. or its predecessor companies, which conducted any exploration, disturbance, or development activity within the risk area boundary for the CRMA. Current CRMS risk area boundary information is available on the Risk Zone Maps found on the NDEP website at <http://ndep.nv.gov/bca/carsonriver/criverwhatsnew.htm>. The risk area boundary of the CRMA includes all risk zones shown on the NDEP map. Information which was previously submitted by Comstock Mining Inc. that is responsive to this question need not be resubmitted, but should be referenced in your response.

Response 1. Comstock voluntarily provided information about the acquisition by GoldSpring, Inc., a Florida corporation, (GoldSpring) of Plum Mining Company, LLC (Plum), a Nevada Limited Liability Company in 2003 by a series of emails from Carolyn McIntosh to Eric Esler from November 2011 through early January 2012. The list of documents provided is attached. A brief description of that acquisition follows:

Comstock is a Nevada corporation. It was originally incorporated in Florida in 1999 (GoldSpring). In October 2003, GoldSpring acquired all of the assets of The Plum Mining Company, LLC (Plum), a Nevada limited liability company, organized in November 1996. GoldSpring reincorporated in Nevada in 2008. On July 21, 2010, GoldSpring changed its name from "GoldSpring, Inc." to "Comstock Mining Inc.," by way of a merger with a wholly owned subsidiary (Comstock Mining Inc.) that was formed solely for the purpose of changing the company name. Plum still exists and is now wholly owned by Comstock. As a limited liability company, Plum is managed by its managing member which is also Comstock.

Plum had acquired certain mineral interests, rights-of-way, and land circa 1999 consisting of the 40 acres now occupied by the Comstock processing area, the Billy the Kid, Lucerne and Hartford Pit areas and the rights-of-way across BLM lands between the pits and processing area. Plum commenced mining operations after obtaining all necessary permits in 2004. By that time, Plum had been acquired by GoldSpring. The heap leach process commenced in September 2004 and continued through the second quarter of 2007 when operations went into temporary closure.

Comstock has continued to acquire mineral and land interests in the historic Comstock lode areas in the vicinity of Virginia City, Gold Hill, and Silver City. We are in the process of compiling and reviewing that information and will forward responsive documents in the near future. However, neither Plum, GoldSpring, nor Comstock has acquired any other company that conducted any exploration, disturbance, or development activity within the risk area boundary for the CRMA.

**Request 2.** Please provide information showing the dates, nature, boundaries, and locations of all physical disturbances and mining, development, or exploration activities conducted by Comstock Mining Inc. or its predecessor companies within the risk area boundary of the CRMS. In addition to a description of activities, the information should be displayed spatially by superimposing the locations and boundaries of activities on either Risk Zone Orthophoto Map or Topographic Map found on the NDEP website above. Both permitted and non-permitted activities should be included.





Response 2. The "Sampling and Analysis Plan, Comstock Mining Inc. Soils assessment Areas Affected by the Carson River Mercury Site, Gold Hill, NV" (SAP) provides information showing the boundaries and locations, and to a limited extent, the nature, of all physical disturbances and mining, development, or exploration activities within the risk area boundary of the CRMS, including those of companies independent of Plum and/or Comstock. A copy of the SAP is available on the NDEP website at [ndep.nv.gov/Comstock/index.htm](http://ndep.nv.gov/Comstock/index.htm). Comstock has prepared two additional figures which are enclosed, one showing the physical disturbances and exploration activities conducted by Plum and Comstock, and the second showing only the physical disturbances and exploration activities conducted by Comstock after NDEP made publicly available the CRMS potential risk area boundary map. We are also enclosing two tables of exploration boring locations. Comstock is preparing a third figure to show mining related and development disturbances by Plum and Comstock that we will forward in our subsequent response.

It is our understanding that NDEP developed the CRMS potential risk area boundary map and that it was first made available to the public on the NDEP website on April 27, 2011. Moreover, as you know, the focus of EPA's CRMA Record of Decision (ROD) for Operable Unit 1 (OU1), dated March 30, 1995, was predominantly residential properties; five residential properties were remediated by soil removal. The sixth proposed remediation location in the Dayton area was ultimately not addressed due to residents' objections. The Long-Term Sampling and Response Plan (LTSRP) was developed, essentially as an institutional control and the two successive five-year reviews both found that the remedy remained protective of public health and the environment. The potential for industrial or mining development within the potential risk areas of the CRMS was not directly addressed in the ROD or the LTSRP until last year (2011).

Plum acquired the 40-acre processing area property from Shaddock in late 1996 or early 1997. At the time of acquisition, the property was occupied by a small office structure (slab on grade) and limited dirt surface parking area. The remainder of the 40 acres remained native range land and contained no historic tailings or mill sites. It is also important to note that during the time that Plum operated, before being acquired by GoldSpring, the CRMS site focus was on residential areas, historic mine tailings and historic mills. The LTSRP did not directly require any action by Plum (given the clear focus of the LTSRP on residential development), and there was no CRMS potential risk area boundary map. This is also true for all of Comstock's operations through April of last year. Comstock engaged in exploration activities in three locations after the posting of the potential risk area boundary map: on the east side of Highway 342, north of Devils Gate, on and near an existing road used by Storey County to access its water tank (and used by the public), in the Dayton area, and in the pit. These locations are shown in a separate enclosed figure.

**Request 3. Please provide information on any notices of violation or enforcement actions issued by regulatory authorities to Comstock Mining Inc. or predecessor companies related to activities within the risk area boundaries of the CRMS.**

Response 3. Comstock Mining received a Notice to Cease and Desist from Introducing Pollutants of Waterways from Nevada Division of Environmental Protection Bureau of Water Pollution Control on May 11, 2011. The letter stated that Comstock was in violation of NAC 445A.465 parts c and d by introducing dirt and rock into the waterway along Highway 342. Although neither the NDEP's or Comstock's pictures document that dirt and rock related to our



exploration activities were introduced into the waterway, a plan was developed at NDEP's direction to place material into the waterway to allow vehicles to cross the ephemeral stream. The exact location is not specified in the letter, but as directed by NDEP, rip rap material was placed to armor an approximate 300 foot in length section of the east bank of Gold Canyon Creek, an ephemeral drainage, located at approximately NE1/4 Section 8, T16N R21E MDB&M, Latitude: 39° 16' 15" and Longitude: 119° 38' 55"W and the crossing of that ephemeral drainage on an existing road used by Storey County to access its water tank (and used by the public). The placed fill material was riprap purchased from Canyon Creek Construction (receipts are attached). Riprap material from Canyon Creek Construction was also placed to make a designated riprap waterway crossing installation across the then dry drainage of Gold Canyon Creek (receipts are attached). These riprap installations were done pursuant to, and in full compliance with, Temporary Permit TNEV2011453, Authorization to Work in Waterway, issued by NDEP on June 6, 2011. The permit, TNEV2011453 was a temporary working in waterways permit, which expired in December 2011. The riprap installation work was completed on June 16, 2011. A final narrative of the work performed was prepared and submitted to NDEP on June 21, 2011, thereby resolving the matter. NDEP issued a letter releasing Comstock from the Cease and Desist on June 25, 2011.

It should be noted that, as the fill was not required to be in compliance with the Army Corps of Engineers Nationwide permits, that the Corps has requested Comstock to remove the fill. We are currently working with the Corps and NDEP to obtain the proper permits to comply with the Corps request.

Plum received an Administrative Order on Consent (AOC) dated July 24, 2008 from NDEP to increase posted reclamation bond, provide a means for Plum to obtain approval for existing and proposed drilling activities, and establishing that NDEP Bureau of Regulation and Reclamation will provide oversight of clean-up activities for the drilling fluids and muds that were allowed to escape into the Gold Canyon drainage. A copy of the AOC is attached. The matter was resolved on or about August 2, 2008 in consultation with Mr. Todd Process of NDEP Bureau of Regulation and Reclamation, as reflected in the attached August 8, 2008 Summary Report on Drill Fluid and Hydrocarbon Clean Up, also attached. We do not have any other records regarding the AOC.

Comstock is not aware of any other notices of violation or enforcement actions issued by regulatory authorities to Comstock Mining Inc. or predecessor companies related to activities within the risk area boundaries of the CRMS, but we will continue our diligent review of earlier records and update this response if additional responsive information is identified.

**Request 4. Please provide the analytical results of any sampling that Comstock Mining Inc. or its predecessor companies have conducted for mercury, arsenic, or lead within the risk area boundary of the CRMS. Please include information on sample media, date, location, depth, whether discrete or composite, analytical method, levels of detection, and any quality assurance/quality control information or reviews of the data.**

Response 4. Comstock has engaged McGinley & Associates, Inc. (McGinley) to implement the sampling described in the SAP. As required by Section 1 of the SAP, the sampling and analysis steps can be very generally describes as: 1) sampling; 2) approved laboratory analysis; 3) third-





party quality assurance/quality control (QA/QC) verification; and 4) report preparation and submittal by McGinley to NDEP. As of the date of this writing, sampling is underway in the Dayton area and the areas north of the existing pit, and has been completed in the Lucerne Pit, the processing area, and the background samples (see Figures 12, and 21 through 29 of the SAP). In total, sampling has been completed in over one-half of the approved sampling locations. It is anticipated that McGinley will complete at least one report by the first full week of March, but at this time, Comstock does not have any SAP sampling data to report to EPA. A copy of all reports submitted to NDEP will also be provided contemporaneously to EPA, to Ms. Jere Johnson.

In addition, Comstock has sampled rock outcroppings on the perimeter of the Lucerne pit to identify mineralization. These discreet samples were taken in 2011 and were analyzed primarily for gold and silver values by an assay laboratory. The assays did include data on the mercury, lead and arsenic values. The data did not show any exceedances of mercury or lead above screening/action levels. The mercury values ranged from <0.02 to 0.34 ppm. The lead values ranged from 3.2 to 93 ppm. Twenty-one (21) of 46 samples did have elevated arsenic, consistent with the native rock. The arsenic values ranged from 3 to 125 ppm. The data were not QA/QC reviewed. We have not enclosed these data, but would be pleased to provide it upon your request. We are currently planning to amend the SAP to have McGinley duplicate the outcrops samples.

Comstock also sampled in the area on the east side of Highway 342, north of Devils Gate adjacent to, but just west of the Gold Canyon Creek ephemeral drainage. Two composite samples were taken on August 23, 2011. Sample locations were temporarily flagged, but the locations were not permanently marked nor were they identified by GPS location at the time of sampling. The laboratory results are enclosed. The data were not QA/QC reviewed.

Comstock, by submitting this response admits no liability under any federal or state law. Further, Comstock does not waive any defenses it may have. In addition, Comstock is continuing its diligent search of responsive information and reserves the right to update the above responses should it identify any other responsive information.



## **List of Provided documents and information**

### *Previously provided documents and information*

- Articles of Organization of the Plum Mining Co, LLC, a Nevada limited liability company, filed November 1, 1996: sent by email from Carolyn McIntosh to Eric Esler on November 15, 2011.
- Chart showing organizational structure of Comstock Mining Inc.: sent by email from Carolyn McIntosh to Eric Esler on November 15, 2011.
- Email message from Carolyn McIntosh to Eric Esler dated November 21, 2011 stating that Comstock Mining Inc. (formerly GoldSpring Inc.) purchased 100% of the Plum Mining Company LLC in Q4 2003.
- October 15, 2003 Minutes of Meeting of Board of Directors of Goldspring, Inc.: sent by email from Carolyn McIntosh to Eric Esler on December 6, 2011.
- Notice of Approval of the Board of Directors of Goldspring, Inc. for purchase of Plum Mining Company, LLC, a Nevada Limited Liability Company, dated October 27, 2003: sent by email from Carolyn McIntosh to Eric Esler on December 6, 2011.
- Member's Interest Purchase Agreement between the owners of The Plum Mining Company, LLC, a Nevada Limited Liability Company and GoldSpring, Inc., a Florida corporation, dated October 27, 2003: sent by email from Carolyn McIntosh to Eric Esler on January 8, 2012.

### *Documents and information enclosed with Response Letter*

1. Sampling and Analysis Plan, Comstock Mining Inc. Soils assessment Areas Affected by the Carson River Mercury Site, Gold Hill, NV, dated January 17, 2012.
2. UTM Locations of Comstock Exploration Holes.
3. UTM Locations of Plum Mining Exploration Holes.
4. Comstock Mining Inc. CRMS Zones & Drilling Locations, Plum and Comstock.
5. Comstock Mining Inc. CRMS Zones & Drilling Locations, holes drilled after 4-27-2011.
6. Cease and Desist from Introducing Pollutants into Waterway, dated May 11, 2011
7. Temporary Permit TNEV2011453, Authorization to Work in Waterway, issued by NDEP on June 6, 2011
8. Final Project Narrative Report for SR 342 Access Road Drainage Crossing and Drainage Channel Restoration, Temporary Permit TNEV2011453, dated June 21, 2011



9. NDEP letter Release from Cease and Desist Order for Comstock Mining activity along Highway 342 in Silver City, NV, dated June 25, 2011.
10. Canyon Creek Construction receipt for purchase of rip rap, dated June 9, 2011.
11. Canyon Creek Construction receipt for purchase of rip rap, dated June 13, 2011.
12. Administrative Order on Consent, dated July 24, 2008.
13. Billie the Kid Mine, Storey and Lyon Counties, Nevada, Summary Report on Drill Fluid and Hydrocarbon Clean Up, dated August 8, 2008.
14. Locations and Analysis of Outcroppings.
15. Analytical report for samples taken August 23, 2011.